

## **ADMINISTRATIVE PANEL DECISION**

Minois Paris v. DuanZuoChun

Case No. D2022-0962

### **1. The Parties**

Complainant is Minois Paris, France, represented by Cabinet Germain & Maureau, France.

Respondent is DuanZuoChun, China.

### **2. The Domain Name and Registrar**

The disputed domain name <minoisparis.com> (the “Domain Name”) is registered with 22net, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 18, 2022. On March 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 21, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

On March 21, 2022, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. Complainant confirmed its request that English be the language of the proceeding on March 21, 2022. Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent in English and Chinese of the Complaint, and the proceedings commenced on March 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 19, 2022.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on April 20, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and

Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

Complainant, MINOIS PARIS, is a French company founded by H el ene Fulchi which produces a range of natural baby skincare products made in France for babies and children. The mark MINOIS PARIS has been used by Complainant as its house-brand since its creation in 2015. MINOIS PARIS has over 25 online retailers distributors worldwide stores.

H el ene Fulchi owns the following registered MINOIS PARIS trademark:

- French trademark number 4261771 registered on April 4, 2016, covering the products in International Class 3.

Complainant also owns and operates several domain names comprising the MINOIS PARIS mark, including:

- <minoisparis.fr> registered on February 17, 2015;
- <minoisparis.ovh> registered on December 23, 2019;
- <minois-paris.fr> registered on December 23, 2021;
- <minois-paris.com> registered on December 23, 2021.

Respondent registered the Domain Name on June 25, 2018. The Domain Name directs to a parked page offering the Domain Name for sale.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that (i) the Domain Name is identical and confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

In particular, Complainant contends that it has trademark rights in the registrations for MINOIS PARIS and owns domain names incorporating the MINOIS PARIS trademarks. Complainant contends that Respondent registered and is using the Domain Name to confuse Internet users looking for *bona fide* and well-known MINOIS PARIS products and services.

Complainant notes that it has no affiliation with Respondent, nor authorized Respondent to register or use domain names, which includes Complainant's trademarks, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Name. Rather, Complainant contends that Respondent has acted in bad faith in acquiring the Domain Name and setting up the corresponding website, when Respondent clearly knew of Complainant's rights.

##### **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

### **6.1. Preliminary Procedural Issue – Language of the Proceeding**

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement between the respondent and the registrar in relation to the disputed domain name, the language of the proceeding shall be the language of the registration agreement, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Complainant submitted its original Complaint in English. In its Complaint and email dated March 21, 2022, Complainant requests that the language of the proceeding should be English. According to the information received from the Registrar, the language of the Registration Agreement for the Domain Name is Chinese.

Complainant contends that: Respondent responded in English to a communication sent by Complainant in response to Complainant's inquiry regarding Respondent's intentions to the Domain Name, indicating Respondent's familiarity with English; that the Domain Name is registered in Latin characters and the Domain Name is being offered for sale in English and in USD. In addition, Complainant contends that Respondent has registered more than 240 domain names mainly composed of English terms related to European or American companies. Complainant further contends that Respondent is a cybersquatter and it would be unfair for Complainant to bear the burden and cost for Complainant to translate and conduct the proceeding in Chinese.

In exercising its discretion to use a language other than that of the Registration Agreements for the Domain Name, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time and costs.

The Panel accepts Complainant's submissions regarding the language of the proceeding. The Panel notes that the Center notified the Parties in Chinese and English of the language of the proceeding as well as notified Respondent in Chinese and English of the Complaint. Respondent chose not to comment on the language of the proceeding nor did Respondent choose to file a Response.

The Panel is also mindful of the need to ensure that the proceeding is conducted in a timely and cost-effective manner. Complainant may be unduly disadvantaged by having to translate the Complaint into Chinese and to conduct the proceeding in Chinese.

Having considered all the circumstances of this case, the Panel determines that English be the language of the proceeding.

### **6.2. Substantive Issues**

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name was registered and is being used in bad faith.

Section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states that failure to respond to the complainant's contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true.

Thus, although in this case Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

### **A. Identical or Confusingly Similar**

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Complainant provided evidence of its founder H el ene Fulchi's rights in the trademark, as noted above. Complainant has also submitted evidence, which supports that the MINOIS PARIS trademark is widely known and a distinctive identifier of Complainant's products and services. Complainant has therefore proven that it has the requisite rights in the MINOIS PARIS trademark.

With Complainant's rights in the MINOIS PARIS trademark established, the remaining question under the first element of the Policy is whether the Domain Name, typically disregarding the Top-Level Domain ("TLD") in which it is registered (in this case, ".com"), is identical or confusingly similar to Complainant's trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Name is identical to Complainant's MINOIS PARIS trademarks. This trademark, which is fanciful and inherently distinctive, is recognizable in the Domain Name. In particular, the Domain Name includes Complainant's trademark MINOIS PARIS in its entirety, and the absence of a space between the terms "minois" and "paris" in the Domain Name does not prevent a finding of confusing similarity between the Domain Name and the MINOIS PARIS trademark..

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

### **B. Rights or Legitimate Interests**

Under paragraph 4(a)(ii) of the Policy, a complainant must make a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and the MINOIS PARIS trademarks, and does not have any rights or legitimate interests in the Domain Name.

Complainant has confirmed that Respondent is not affiliated with Complainant, or otherwise authorized or licensed to use the MINOIS PARIS trademark or to seek registration of any domain name incorporating the trademark. Respondent is also not known to be associated with or commonly known by the MINOIS PARIS trademark.

In addition, Respondent has not used the Domain Name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, the evidence demonstrates that the Domain Name resolves to a parked page offering the Domain Name for sale. Such use does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Name.

Moreover, there is no evidence showing that Respondent has been commonly known by the Domain Name. The Domain Name combines the entirety of Complainant's trademark MINOIS PARIS with the absence of a space between the terms "minois" and "paris", and renders the Domain Name identical to Complainant's trademark and to Complainant's domain names, including <minoisparis.fr> and <minois-paris.com>, carrying

a risk of implied affiliation to Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

Accordingly, Complainant has established its *prima facie* case that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.”

The Panel finds that Complainant provided ample evidence to show that registration and use of the MINOIS PARIS trademarks predate the registration of the Domain Name. Complainant's reputation is also well established and known. Indeed, the record shows that Complainant's MINOIS PARIS trademark and related products and services are widely known and recognized. Therefore, and also noting the composition of the Domain Name is identical to Complainant's trademark and practically identical to Complainant's domain names including <minoisparis.fr> and <minois-paris.com>, Respondent was likely aware of the MINOIS PARIS trademark when it registered the Domain Name, or knew or should have known that the Domain Name was confusingly similar to Complainant's trademark. See [WIPO Overview 3.0](#), section 3.2.2; see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, the registration of the Domain Name incorporating Complainant's MINOIS PARIS trademark suggests Respondent's actual knowledge of Complainant's rights in the MINOIS PARIS trademark at the time of registration of the Domain Name and its effort to opportunistically capitalize on the reputation of Complainant's trademark.

In addition, as noted above, Respondent has not used the Domain Name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Instead, the Domain Name resolves to a parked page offering the Domain Name for sale. In particular, the Domain Name is listed for sale on a third-party website. Upon Complainant's inquiry, Respondent offered the Domain Name for "[USD]\$6800", which clearly indicates that Respondent registered or acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name to Complainant or to a competitor of Complainant, for valuable consideration in excess of Respondent's documented out-of-pocket costs directly related to the Domain Name.

Lastly, in the present circumstances, including the distinctiveness and reputation of the MINOIS PARIS trademark, the failure of Respondent to submit a Response or to provide any evidence of actual or contemplated good-faith use of the Domain Name, and the implausibility of any good-faith use to which the Domain Name may be put, support a finding of bad faith. Accordingly, the Panel finds that Respondent has registered and is using the Domain Name in bad faith and Complainant succeeds under the third element of paragraph 4(a) of the Policy.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name, <minoisparis.com>, be transferred to Complainant.

*/Kimberley Chen Nobles/*

**Kimberley Chen Nobles**

Sole Panelist

Date: April 29, 2022